

Message Text

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ACTION ARA-14

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FM AMEMBASSY MONTEVIDEO
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C O N F I D E N T I A L SECTION 1 OF 2 MONTEVIDEO 1663

E.O. 11652: GDS
TAGS: SHUM, PGOV, UY
SUBJ: URUGUAYAN INSTITUTIONAL ACTS

REF: MONTEVIDEO A-13

1. EMBASSY WISHES TO CALL ATTENTION OF ALL OFFICERS
AND INDIVIDUALS CONCERNED WITH HUMAN RIGHTS AND RESTORATION
OF DEMOCRATIC PROCESS IN URUGUAY TO ITS A-13, QUOTE
URUGUAY'S 'INSTITUTIONAL ACTS': A SUMMARY AND ANALYSIS
UNQUOTE.

2. THE SUMMARY AND COMMENT CONTAINED IN THIS AIRGRAM
ARE AS FOLLOWS:

A. SUMMARY: THE EIGHT 'INSTITUTIONAL ACTS' ENACTED
BY THE GOU DURING THE THIRTEEN-MONTH PERIOD ENDING IN
JULY 1977 REVEAL AN ORDERLY PROGRESSION FOR RESTRUCTURING
THE GOVERNMENT. THIS INVOLVES (A) SUSPENSION OF POLITICAL
ACTIVITIES; (B) WEAKENING OF PREVIOUSLY INDEPENDENT BRANCHES
OF THE GOU; AND (C) CENTRALIZATION OF POWER IN THE EXECUTIVE,
WITH AN INCREASED OR DOMINANT ROLE TO BE PLAYED BY THE
MILITARY. AS SPECIFICALLY STATED IN IA-2, THE PRINCIPLES
EMBODIED IN THE ACTS WILL FORM THE BASIS FOR THE NEW
CONSTITUTION TO BE RATIFIED IN 1980. IN BRIEF:
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IA-1 SUSPENDED GENERAL ELECTIONS INDEFINITELY;

IA-2 CREATED THE COUNCIL OF THE NATION, A MILITARY-
DOMINATED BODY WITH APPOINTMENT AND IMPEACHMENT
POWERS OVER THE HIGHEST OFFICES IN THE GOU, AND
ESTABLISHED THE PROCEDURE BY WHICH THE NEW CONSTI-

TUTION WILL BE RATIFIED;

IA-3 INSTITUTIONALIZED A MAJOR POLICY ROLE FOR THE MILITARY-DOMINATED NATIONAL SECURITY COUNCIL, TRANSFERRED PRIMARY RESPONSIBILITY FOR ADMINISTRATION OF JUSTICE FROM THE JUDICIAL POWER TO THE NEWLY-CREATED MINISTRY OF JUSTICE, AND CREATED A NEW NATIONAL BUDGET AND PLANNING OFFICE, SEPLACODI;

IA-4 SUSPENDED THE POLITICAL RIGHTS, IN VARYING DEGREE, OF ALL PRESIDENTIAL AND VICE-PRESIDENTIAL CANDIDATES IN, AND LEGISLATORS ELECTED DURING THE 1966 AND 1971 ELECTIONS;

IA-5 SET FORTH THE BASIC GOU POSITION ON HUMAN RIGHTS, NAMELY THAT THE RECENT WORLD-WIDE PHENOMENON OF URGAN TERRORISM REQUIRES TACTICS DIFFERING FROM THOSE REQUIRED TO DEFEND NATIONAL SECURITY, ALTHOUGH SOME WOULD ERRONEOUSLY CASTIGATE THESE TACTICS AS VIOLATIONS OF HUMAN RIGHTS. IT ALSO SPECIFIED THE PREREQUISITES FOR GOU ACCEPTANCE OF HUMAN RIGHTS INVESTIGATIONS BY INTERNATIONAL ORGANIZATIONS;

IA-6 ESTABLISHED THE EXECUTIVE POWER'S DOMINANCE OVER THE HITHERTO INDEPENDENT ELECTORAL PROCESS BY INTERVENING THE ELECTORAL COURT AND ITS SUBSIDIARY

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AGENCIES;

IA-7 REMOVED FROM THE LEGISLATIVE TO THE EXECUTIVE POWER THE RIGHT TO DISMISS GOVERNMENT EMPLOYEES, EITHER FOR REDUNDANCY OR INCOMPETENCE. THUS FAR IT HAS APPARENTLY BEEN USED LARGELY TO PURGE GOU OFFICES OF IDEOLOGICALLY UNDESIRABLE ELEMENTS.

IA-8 COMPLETED THE EMASCULATION OF THE JUDICIARY BY EFFECTIVELY TERMINATING ALL ITS INDEPENDENT ADMINISTRATIVE ACTIVITIES, INCLUDING ALL JUDICIAL APPOINTMENTS, TRANSFERS AND REMOVALS, AND BY FORCING ALL SITTING MAGISTRATES TO UNDERGO A FOUR-YEAR PROBATIONARY PERIOD BEFORE THJIR TENURE IS CONFIRMED.

END SUMMARY.

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C O N F I D E N T I A L SECTION 2 OF 2 MONTEVIDEO 1663

B. SUMMARY COMMENTS: COLLECTIVELY, THE RIGHT INSTITUTIONAL ACTS TRANSFORMED THE FORMERLY LIBERAL INSTITUTIONAL STRUCTURE OF THE GOU INTO THAT OF A BUDDING CORPORATE STATE IN WHICH ALL POWER IS CONCENTRATED IN THE EXECUTIVE AND NATIONAL SECURITY IS AN ALL-ENCOMPASSING GOAL (AND EXCUSE). THIS NEW STRUCTURE DOES NOT RESULT FROM A GRAND STRATEGY TO ESTABLISH SUCH A STATE, BUT FROM A SERIES OF INDIVIDUAL ACTS OVER A PERIOD OF THIRTEEN MONTHS TAKEN BY THE PRESIDENT AND A GROUP OF RIGHT-WING CIVILIANS IN THE GOVERNMENT. GIVEN FREE REIN TO REDESIGN THE STATE, IT IS NOT SURPRISING THAT THEY FOLLOWED THEIR OWN IDEOLOGICAL BENT. ALTHOUGH THIS NEW CORPORATE STATE HAS EVOLVED AS A HODGEPODGE OF IDEOLOGICAL BIAS AND HAM-HANDED PROBLEM SOLVING, IT IS NEVERTHELESS IN PLACE AND FUNCTIONING.

FORTUNATELY FOR URUGUAY, THE INSTITUTIONAL ACTS WILL HAVE TO BE REAFFIRMED IN THE NEW CONSTITUTION TO HAVE ANY CONTINUING EFFECT, A PROCESS WHICH WILL GIVE MORE MODERATE ELEMENTS A SHOT AT THEM. SINCE THERE HAS BEEN NO PUBLIC OR PRIVATE DISCUSSION OF THE NEW CONSTITUTION, AND NO OFFICIAL DELIBERATION EVEN WITHIN THE COUNCIL OF STATE, WHICH IS CHARGED WITH WRITING ITS OWN FIRST DRAFT, NO ONE CAN PREDICT WHAT WILL EMERGE IN 1981. HOWEVER, THERE IS A GROWING REALIZATION, WITHIN MILITARY AS WELL AS CIVILIAN SECTORS, THAT PROVISIONS OF THE ACTS ARE CUMBERSOME, THAT
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SOME MAY BE DANGEROUS, AND THAT THE GOVERNMENT STRUCTURE WHICH THEY CREATE DOES NOT FUNCTION EFFICIENTLY, CONDITIONS WHICH PRESAGE MODIFICATIONS.

TO DATE, ONLY IA-4 AND IA-8 HAVE MET WITH ANY ORGANIZED

RESISTANCE OR CAREFUL QUESTIONING. IT IS GENERALLY AGREED THAT THE MILITARY'S COMMITMENT TO PERMIT THE TWO TRADITIONAL PARTIES TO PARTICIPATE IN THE 1981 ELECTIONS IMPLIES AT LEAST A PARTIAL RESTORATION OF RIGHTS TO THOSE WHO LOST THEM UNDER IA-4. IA-8 WAS THE SUBJECT OF SPECIFIC RECOMMENDATIONS BY THE RECENT BUTLER-REQUE ABA TEAM, WHO STRESSED THE IMPORTANCE OF AN INDEPENDENT JUDICIARY TO THE SMOOTH FUNCTIONING OF THE RULE OF LAW IN SOCIETY. IN EFFECT, THE ABA MISSION RECOMMENDED THE REVERSAL OF ALMOST ALL THE PROVISIONS OF IA-8. THE COMMENTS OF THE MILITARY CINCS ON THE ABA RECOMMENDATIONS CLEARLY IMPLIED THEIR MODIFICATION IN THE NEW CONSTITUTION. MOREOVER, WITH THE PUBLICATION IN ALL MEDIA OF THE ABA RECOMMENDATIONS ON IA-8 AND THE COMMENTS OF THE CINCS, THE ACT WAS OPENED TO PUBLIC SCRUTINY FOR THE FIRST TIME. THIS SUGGESTS THAT, IF RESTRICTIONS ON THE MEDIA ARE LIFTED (AND URUGUAY IS CURRENTLY GOING THROUGH A PERIOD OF RELATIVE FREEDOM OF EXPRESSION), THE OTHER INSTITUTIONAL ACTS ARE ALSO LIKELY TO BE SUBMITTED TO PUBLIC REVIEW AND DEBATE. END SUMMARY COMMENTS.
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